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Supreme Court, U.S.
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NO. 08-491

IN THE

SUPREME COURT OF THE UNITED STATES

RONALD ELIOT GAY & WYLMA GAY COOLEY,
PETITIONERS

VERSUS

JANET HUNT, *ET AL.*, RESPONDENTS

ON THE PETITION FOR A *WRIT OF CERTIORARI*
TO THE HONORABLE RHODE ISLAND SUPREME COURT

A JOINT PETITION FOR A RECONSIDERATION FOR A *WRIT OF CERTIORARI*

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DATED: DECEMBER 26, 2008

Certification of Conscience Prompting a Second Plea for *Certiorari* in Gay v. Hunt, et al., 08-491

Petitioner, Ronald Eliot Gay, here reveals his motivations for his second plea for *certiorari*. He also speaks on behalf of his sister and fellow petitioner, Wylma Gay Cooley, who is separately sending her agreement to this petition, and her own statement of conscience.

For reasons of conscience, I carefully studied all pertinent laws, case precedents, and the trust writings of my blood great uncle, Art Hadley, to determine if, or if not, and to what degree, I was, or was not, his heir, for had I not been his heir, I would not have argued for any portion, but having learned that I was his true 1/11th heir by his direct choice, and also for reasons of law the course to pursue was evident to me.

I could not, in good conscience, allow people who have no legitimate right to any portion of my inheritance take from me that which is rightfully mine. If I eventually fail to prevail, it will not be because I am not right, it will be because the Rhode Island Courts abused their might.

Having lost, and after careful study as to "Why?", it became clear that the Court had departed from centuries of precedents when it refused to both construct the trusts and to follow its own state's laws. This departure was justified by the misuse of case law. Further study also revealed that throughout America the misuse and abuse of case law is a growing problem that should greatly concern this Honorable United States Supreme Court.

I certify that I am pursuing this second attempt for *certiorari* for rightful reasons of truth and justice, and that I have "no" malicious intentions.

Signed this 26th day of December, 2008.

R. E. Gay

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Stormer, John A. Betrayed By The Bench. Florissant, MO: Liberty Bell Press, 2005.

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Petition to Reconsider Denied *Certiorari* Petition

Petitioners, Ronald Eliot Gay and Wylma Gay Cooley, seek grace from this Honorable United States Supreme Court with their final request for *certiorari* in the matter of Gay versus Hunt, *et al.*, No. 08-491. *Certiorari* was denied December 1st, 2008.

Petitioners believe they will prevail on the merits of their case if granted certiorari. They most certainly will suffer irreparable harm if not granted *certiorari*, by loss of a rightful inheritance from their blood great uncle and a threatened lawsuit from the respondents.

The petitioner's case is the epitome of what is wrong with many modern courts and the practice of law today. Typically, inheritance cases are of no interest to the United States Supreme Court, but a troubling question of federal interest is revealed when one understands "why it is" that the petitioners lost. **Simply – The petitioners lost, not because they failed to accurately present their case, but because the Rhode Island Supreme Court and many other courts are drifting from the historic foundations of our laws, and, consequently, laws are becoming merely guidelines that can molded, twisted, abrogated, and/or denied and rewritten at will.**

The primary tool of this unjust and damaging practice is the misuse of case law. The practical effect is that the courts are then found to be functioning as legislatures. Baron Montesquieu, the most quoted writer by the Framers of the Constitution, warned of the dangers of uncontrolled judicial power in his Spirit of the Laws, 1748: *"Nor is there liberty if the power of judging is not separated from legislative power and from executive power. If it were joined to legislative power, the power over life and liberty* (and property) *of the citizens would be arbitrary, for*

the judge would be the legislator. If it were joined to executive power, the judge could have the force of an oppressor. All would be lost if the same ... body of principle men ... exercised these three powers.[1] Blackstone also so warned: *"In all tyrannical governments, the supreme majesty, or the right of both making and enforcing the law, is vested in one and the same man, or one and the same body of men; and wherever these two powers are united together, there can be no public liberty."*[2, 3]

The question is asked, *"If our state courts will not properly decide our inheritance cases according to the written laws, the precedents of centuries of American court decisions of every type of court, the entire history of our common law foundations, and the inalienable rights of testators and their heirs to have the wills in question "constructed" to whom then can the common man go?"* If this Honorable Supreme Court denies *certiorari* it has then affirmed an injustice that these petitioners will have to suffer. Two out of three hundred million citizens seems to be a small drop in the bucket of important events, but allowing the judgment to stand will be a green light that affirms that it is still OK for large corporate banks, slick lawyers, and courts to work together to find ways around the written laws to wrest out whatever decision it is that they desire with no regard or respect to the rightful question as to, "Who are the rightful owners of this

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[1] Mark I. Sutherland, *et al.*, Judical Tyranny – the new kings of america, Essay by William J. Federer, American Oligarchy, pages 103-104.

[2] Sir William Blackstone, Knight, Commentaries on the Laws of England, Reprinted and commented on by William Drapper Lewis, Ph. D., printed by Rees Welsh & Company, Philadelphia, 1897, Book 1, Chapter 2, pages 133.

[3] On (approximately) the 12th of December, 2008, Karen, a senior staff manager in US Senator Russ Feingold's Middleton, Wisconsin Office, emphatically told this petitioner that, *"the courts have the (Constitutional) right to change laws."* Is this not another indication of the problem?

inheritance?" Justice seems, in some respects, to be a commodity that is for sale to the highest and most influential bidders. Should we teach our school children that *"with liberty and justice for all"* should be left out of the "Pledge of Allegiance?" Perhaps the pledge should say, *"with justice for all those who are more equal than others, i.e. more equal in education, more equal in influence, more equal in social standing, more equal with money, connections, and etc."* While not a law, the "Pledge of Allegiance" is still an act of Congress.

The petitioners believe that this Honorable Court has an implied responsibility to uphold the ideals that have made our country the greatest nation. The ideal of *"justice for all"* extends even to both testators,[4] who placed their faith in our laws demonstrated by estates in trust for their future chosen heirs, and to even those most humble.

Petitioners realize that the justices do not directly answer petitioners questions, and this petitioner has wondered if justices even read his petitions and briefs, but in the hope that they do the question is asked, *"What is the collective conscience of the Honorable Justices of this Court concerning affirming an injustice that will not only injure "only" two directly, but the nefarious causes of this injustice are injuring scores of Americans every day?"*

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[4] Testators are people, who in their time secured this right not only for themselves, but also for future generations. We of the "future" generation should respect, and the courts should protect, our forbearers' choices. Art Hadley was a successful business man whose businesses and inventions benefited many in both enjoyment and employment. He also paid a horrible price for freedom in WWI when he was gassed by the Germans, and, for the rest of his life, he suffered. He made a better America for all of us. Does he not deserve a proper construction? Does not America still respect the testamentary choices of its ancestors? Is not his money definable property for heirs of his choices, or is it only "found" money left in store for future generations of lawyers, and those who can buy one to find a way to unjustly wrest some of this money for themselves? This case has many important implications.

Petitioner notes four of the countless examples of judges misjudging the law and overstepping their authority by overturning the intentions of legislatures, and even the directly revealed will of the voting public.[5]

1. Arizona voted English as their official language, but Federal Judges overruled. (9th Circuit, Prop. 106, March 3, 1997)

2. Arkansas passed term limits for politicians, but Federal Judges overruled. (Sup. Ct., *Term Limits v Thorton,* May 22, 1995)

3. Missouri voters defeated a tax increase, but Federal Judges overruled. (8th Circuit, Missouri v Jenkins, Apr. 18, 1990)

4. New York citizens voted against physician-assisted suicide, but Federal Judges overruled. (2nd Circuit, Apr. 2, 1996)

The point is this - these laws were overturned because the judges believed that it was their duty to overturn these laws because they believe that these laws actually violated the Constitution, and that the Constitution has made them guardians of its precepts. ***But, what about when courts overturn or make laws when there is not even a "shred" of any constitutional reasons or concerns?***

This idea that the Constitution has empowered judges to overturn faulty laws that legislatures have made actually has an historical origin in the common law as artfully explained by Sir William Blackstone and Sir Edward Coke. Blackstone: *"Upon two foundations, the law of nature and the law of revelation, depend all human laws;*

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[5] Sutherland, *et al.*, essay by Federer, pages 97 – 98.

that is to say, no human laws should be suffered to contradict these." Coke: *"... when an Act of Parliament is against common right or reason or repugnant or impossible to be performed, the common law will control it, and adjudge such act to be void."*

John Jay, the first Chief Justice of the United States Supreme Court, noted the source of this natural law, *"The moral, or natural law, was given by the sovereign of the universe to all mankind."*[6] This case presents several questions:

1. Can judges overturn laws that are enacted by legislators, when there are **"no"** Constitutional violations, no Constitutional concerns, no prior contradictions in law, and when the *"effects and consequences"* of their choices are wrong according to the revealed historical understanding and purpose of natural law, the common law, precedent history, and statutes?

2. By what authority can the Rhode Island Supreme Court change the laws that have been enacted by the Legislature of Rhode Island when there are in those laws no violations of the constitutions of either the United States, or of the State of Rhode Island upon which to justify those changes?

3. Where in the record, and for whatever reason can it be demonstrated that the laws that the Rhode Island Supreme Court has actually changed, and made, were changed or made for a bona fide reason that has been derived from the centuries of American law, and centuries of the common law before that?

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[6] John A. Stormer, Betrayed by the Bench, Florissant, Missouri: Liberty Bell Press, (2005). The quotes and some insights derived from them are gleaned from pages 56 -58.

1. By what authority can the Rhode Island Supreme Court create laws that deny testators and their heirs their inalienable rights of "*due process*" to have wills fairly and accurately constructed?

What hope does John Q. citizen ever have of obtaining impartial justice in Rhode Island? Can he find it in the United States Supreme Court, and if he is not welcome or allowed there, then what is he to do when he suffers a great loss? Is anarchy the solution?[7] It has been said that the surest way to introduce anarchy into a nation is to, "*either pass and enforce bad laws, or to improperly judge and improperly enforce or not enforce the good ones.*" Another way to sow the seeds of anarchy is for the courts to assume the role of the legislatures, and to then create and force upon people reprehensible laws of their own creation.

Petitioner addressed in his other writings other consequences that are sure to follow this erroneous choice of the Rhode Island Supreme Court. Most certainly, another consequence if *certiorari* is not granted is that this Court will have then given a green light to courts like the Rhode Island Supreme Court to arbitrarily change the law at will, even when there is not even a shred of a constitutional reason, or in fact any sensible reason at all.

The petitioners have carefully, honestly, logically, factually, and accurately demonstrated in their writings how it is that the Rhode Island Supreme Court has strayed from centuries of its own history, how that its ruling is contradicted by centuries of the U.S. Supreme Court's rulings, how that other states that have the same and similar laws as Rhode Island have judged for centuries, and

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[7] Petitioner does not believe in anarchy, but he recognizes rightful frustration in society with the American court system's departure from the historic common law principles of natural law, and natural justice, and that, he does see good evidences of the sowing of the seeds for anarchy, and that, in many respects, this sowing is a consequence of the choices of courts over time.

presently judge their cases in the tradition to which these petitioners have advocated as being correct, and that most importantly the Rhode Island Supreme Court has ruled in violation to the plain and literal meanings of the exact and enacted words of the laws of its own state's legislature, not to even mention that this Court absolutely refused to construct the intentions of the testator in his two trusts, which was, and is, contrary to the proper Constitutionally protected "*due process of law*" rights as demonstrated by centuries (**YES!, CENTURIES!**) of precedents, and the customs, and practices of all of the courts in the United States of America.

Petitioners have also well demonstrated how it is that the rights of a testator to dispose of his property and have his wills constructed, if ever necessary, is an inalienable right that, consequently, cannot be legislated by any state, and that this right is to not be subjugated to the capricious and arbitrary choices of any court. Is it in the conscience of this Court to leave unchallenged and undefined the idea that testators and their heirs have an inalienable right to a proper construction, or will this Court ignore this issue thereby signaling that this is also a commodity to be arbitrary handled by courts and corporate banks as they will? We are tomorrow's testators, do we desire a Court backed guarantee that our wills will be fairly constructed, if ever necessary?

Blackstone addressed the inherent and inalienable rights of one to own and dispose of property, and to expect a reliable court system.

> *"The third absolute right, inherent in every Englishman, is that of property: which consists in the free use, enjoyment, and* ***disposal*** *of all his acquisitions, without any control or diminution, save only by the laws of the land. The original of private property is probably founded in nature ... The laws of England are therefore, in point of honor and justice,*

extremely watchful in ascertaining and protecting this right. Upon this principle the great charter has declared that no freeman shall be, disseised, or divested, of his freehold, or of his liberties, or free customs, but by the judgment of his peers, or by the law of the land... ...; ***and that no man shall be disinherited****, nor put out of his freehold, ...*

So great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community*. ... ... Besides, the public good is in nothing more essentially interested, than in the protection of every individual's private rights, ..."*[8]

"A third subordinate right of every Englishman is that of applying to the courts of justice for redress of injuries ... ... wherein justice is to be directed to be done according to the law of the land; and what that law is every subject knows, or may know, if he please; ***for it depends not upon the arbitrary will of any judge, but is permanent, fixed, and unchangeable, unless by an act of parliament.*** *..."*[9]

Petitioner's note that a particular difficulty is theirs when explaining new facts or insights concerning their case because the foundations for their arguments and the body of law which holds the answers to their case are contained within the inalienable rights of which our Declaration declares have originated from "*natures God.*" Consequently, there are no acts of Congress, nor state or federal statutes that exist to resolve the petitioner's dilemma. The

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[8] Blackstone/Lewis, Book 1, Chapter 1, Section III, pages 126 – 128.
[9] Blackstone/Lewis, Book 1, Chapter 1, Section III, paragraph 3, pages 130 – 131.

definitive legal answers for this case are for the most part found in our Declaration and Constitution, and in the inalienable rights and the common law foundations of our country as affirmed by centuries of precedents from courts of every type.

The inferior logic and substandard practice of law by the two Rhode Island courts was well explained by the petitioners. If something is intrinsically good, repeated viewings will only and always discover new and wholesome facts; if something is intrinsically flawed repeated viewings will only find more and more grunge, and so it is with this case. The more the petitioners study their case the more they find in their favor, and they have never found any fact of this case that they need to overlook, and/or explain away like the respondents must do. The latest example of something being rotten in Rhode Island is Attorney Lauren Jones admission that the lawyers and the bank have once again dipped into the principle of the trust funds prior to final ownership resolution.[10] "Nothing" in the settlement gives to those attorney's and the bank a right to any principle at this time. Petitioner accurately raised this problem of principle being illegally taken by the bank to the Rhode Island Supreme Court, and also to this Court. If the Fleet Bank and the attorneys can raid trusts at will[11] who is going to stop them, obviously not the Rhode Island Supreme Court.

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[10] Documented in the plea for a stay.

[11] This admission is troubling: 1) The trusts may not be in complete safe keeping. 2) If the respondents and the bank were paid from the trusts by an order of the Rhode Island Supreme Court this petitioner was not notified. 3) If they took it upon themselves to pay themselves without a court order this then is just another indication of the state of the good practice of law in Rhode Island. 5) If Certiorari is granted and the petitioner ultimately wins, this Court would then have another problem added to the list of wrongs concerning this case. As mentioned, "If *something is intrinsically flawed* ..."

If this Honorable Court does not intercede injustice will be affirmed, the petitioners, who will suffer an immediate and tragic loss, will go away, but the underlying issues will not. Our country, the honor and dignity of this great Court and the practice of law will also suffer a great loss. There will be other wronged petitioners bringing cases both dissimilar and similar to this one that arise from and represent the same flawed foundational issues. If not now, when? When will this Court address this problem, and if not now, how many? How many others are going to be irreparably harmed and deprived of properties that are rightfully theirs, before the cause of this injustice that is sweeping our land is fixed. Does this Court have a conscience for this petitioner's plea for grace, and if not, will this Honorable Court have a conscience if it lets this injustice stand?

Petitioners respectfully pray for *certiorari*.

Respectfully submitted on December 20th, 2008, by *pro se* petitioners Ronald Eliot Gay, and Wylma Gay Cooley.